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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,704	09/26/2003	Jerome A. Mattingly	MAT 1001-1	1120

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HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY, CA 94019

EXAMINER

FETSUGA, ROBERT M

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 05/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/672,704

Applicant(s)

MATTINGLY, JEROME A.

Examiner

Robert M. Fetsuga

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 1-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>09/26/03</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-14, drawn to a method for lowering a toilet lid, classified in class 4, subclass 661.

II. Claims 15-19, drawn to a toilet lid, classified in class 4, subclass 242.1.

The inventions are distinct, each from the other because:

Inventions II and I are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product can be used in a process not requiring determination of an area of interest.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification which would lead to divergent fields of search, restriction for examination purposes as indicated is proper.

2. During a telephone conversation with James F. Hann on May 19, 2005 a provisional election was made with traverse to prosecute the invention of Group II, claims 15-19. Affirmation

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of this election must be made by applicant in replying to this Office action. Claims 1-14 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

3. The attempt to incorporate subject matter into this application by reference to "[a]ny and all patents, patent applications and printed publications" (par. 0020) is improper because no particular subject matter is indentified thereby.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 15, 16 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Castle.

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The Castle reference discloses a toilet seat lid comprising: a body 4; and attention attracting matter 10. The attention attracting matter is provided for the purpose of ensuring the cover is placed in a down position (pg. 1 lns. 13-18). The choice of a map as a particular type of attention attracting matter would appear an obvious choice to be made depending upon personal preference. Both the advertising example disclosed by Castle and the map with personalization disclosed by applicant would serve the same purpose of promoting lowering of the lid.

6. Claims 17 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Castle as applied to claim 16 above, and further in view of Thomas.

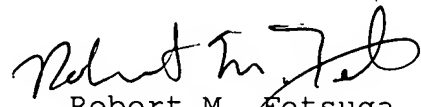
The Castle attention attracting matter is provided in permanent form (pg. 1 lns. 28-31).

Although the attention attracting matter of the Castle toilet lid does not include lamination, as claimed, attention is directed to the Thomas reference which discloses analogous toilet lid which further includes attention attracting matter 4 that is laminated 3. Therefore, in consideration of Thomas, it would have been obvious to one of ordinary skill in the toilet lid art to associate lamination with the Castle attention attracting matter in order to enhance sanitation.

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7. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

8. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday.

A handwritten signature in black ink, appearing to read "Robert M. Fetsuga", is positioned above the printed name.

Robert M. Fetsuga
Primary Examiner
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